

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**November 3, 2005**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 3, 2005, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing Vice-Chair; John W. McKay Jr.; Bill Johnson; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Don Anderson; Denise Sherman; Bud Hentzen; Ronald Marnell and Hoyt Hillman. Morris K. Dunlap was not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; David Barber, Advanced Plans Manager and Lisa Estrada, Recording Secretary.

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#### **1. Approval of October 20, 2005 meeting minutes.**

No minutes to approve.

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#### **❖ SUBDIVISION ITEMS**

#### **2. Consideration of Subdivision Committee recommendations from the meeting of October 27, 2005.**

##### **2-1. SUB 2005-98: Final Plat -- CLIFTON HEIGHTS ADDITION.** located east of Hillside and on the north side of 55th Street South.

**NOTE:** This site is located in the County within three miles of the City of Wichita. It is in an area designated as "2030 Urban Service Area" by the Wichita-Sedgwick County Comprehensive Plan. The site is currently zoned SF-20, Single-Family Residential. A zone request to SF-5, Single-Family Residential or an island annexation will be needed. The site is located within the 100-year floodplain.

#### **STAFF COMMENTS:**

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. In the event annexation is not requested, a zone change will be needed. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- C. The applicant shall guarantee the extension of sanitary sewer (mains and laterals) and City water (mains and laterals) to serve the lots being platted.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. City/County Engineering needs to comment on the status of the applicant's drainage plan. **City Engineering has requested offsite drainage easements or drainage right-of-way to be acquired to construct the proposed diversion to the River. A revised drainage plan is needed. FEMA CLOMR and LOMR will be required at the permitting stage. A grading plan that addresses the offsite drainage is also needed.**
- F. County/City Engineering recommends that Reserves 8 through 31 and 50 through 59 should be platted as a single reserve to be maintained by homeowners association. **The Subdivision Committee concurred with this recommendation along with a means of access for maintenance.**
- G. The platters text shall include the standard floodway comment for Reserve C.
- H. Traffic Engineering has requested a guarantee for appropriate left-turn lanes along 55th St. South and Clifton.
- I. Complete access control has been platted along Clifton and 55th St. South frontage. The final plat shall reference the dedication of access controls in the plat's text.  
  
Access control has been platted as requested.
- J. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- N. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- O. **GIS** needs to comment on the plat's street names. **Street names are approved.**
- P. The plat's text should include language that protects the public from cost of reconstructing improvements in Reserves A and B.
- Q. Because of the landlocked nature of Reserve D being platted, a means of access for maintenance shall be provided. **Traffic Engineering has approved one opening along 55th St. South adjoining Reserve D for maintenance purposes only. The opening shall be located a minimum distance of 200 feet from the southwest corner.**
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. **County Engineering has requested additional language to the plat's text regarding the need for City Council's consent to the creation of a County benefit district.**
- S. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- AA. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements. A utility easement for an overhead transmission line needs to be denoted.**
- BB. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD and pdf (or tiff). If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov) <<mailto:cholloway@wichita.gov>>). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendations.

**MCKAY** moved, **HILLMAN** seconded the motion, and it carried (11-0).

**NOTE:** This is an unplatted site located within the City. The Reflection Ridge CUP (CUP 2000-28, DP-170) was also approved for this site. The Applicant proposes to submit a restrictive covenant to tie the lot together with the adjoining lot to the east.

**STAFF COMMENTS:**

- A. The Applicant proposes to submit a restrictive covenant to tie the lot together with the adjoining lot to the east. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- E. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- F. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- G. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- K. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- N. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- O. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendations.

**MCKAY** moved, **HILLMAN** seconded the motion, and it carried (11-0).

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**2-3. SUB 2005-120: One-Step Final Plat -- QUIRING ADDITION,** located on the north side of 93<sup>rd</sup> Street North and east of 103<sup>rd</sup> Street West.

**NOTE:** This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan.

**STAFF COMMENTS:**

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.

- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan and lot grading plan are needed.**
- E. **County Engineering** needs to comment on the access controls. The plat denotes three openings along 93rd St. North. The final plat shall reference the dedication of access controls in the plat's text. **County Engineering recommends two points of access and removal of the west drive.**
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- G. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. Additional right-of-way needs to be dedicated along 93rd St. North to conform with the 60-ft half-street right-of-way required by the Subdivision Regulations.
- I. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- J. To allow for County Commission approval of this plat, the County Commissioner signature block shall be included on the final plat tracing. The signature line for the County Commissioners Chairman needs to reference "David M. Unruh".
- K. If platted, the building setback for Lot 1 should be measured from the interior lot line between Lot 1 and Lot 2.
- L. Both owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is in the party now shown on the final plat.
- M. According to the platting binder, a blanket pipeline easement has been granted over this plat. The applicant shall either obtain a release of the easement or provide proof that the easement has been confined. If confined, any portion of this easement if on this plat shall be shown and the pipeline's name and recording information shown.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- V. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)).

Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendations.

**MCKAY** moved, **HILLMAN** seconded the motion, and it carried (11-0).

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❖ **PUBLIC HEARINGS – VACATION ITEM**

**3-1. VAC 2005-36: Request to Vacate a Platted Easement.**

**OWNER/APPLICANT:** Steve Peacock

**LEGAL DESCRIPTION:** Generally described as that portion of the platted 10-foot utility easement, located along the west lot line of Lots 1 & 2, and a portion of the north lot line of Lot 1, all in Block 1, all in the Plaza at Cherry Creek Hills Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located east of Rock Road, south of Pawnee Avenue and on the north side of Oak Knoll Street

**REASON FOR REQUEST:** No utilities in easements

**CURRENT ZONING:** Subject property and eastern abutting property are zoned "OW" Office Warehouse. Abutting properties north and west of the site are zoned "B" Multi-family Residential. Southern adjacent property (across Oak Knoll Street) is zoned "LI" Limited Industrial.

The applicant is requesting the vacation of a portion of the platted 10-foot utility easement that runs parallel to its west lot lines of what was Lots 1 & 2 and a portion of the north lot line of Lot 1, all in block 1, all in The Plaza at Cherry Creek Hills Addition. There are no manholes or water and sewer lines in the platted easement. Sewer to the lots is provided by a sewer line located in a 20-foot easement, dedicated by separate instrument (Film 2863, Page 1950), located in the eastern portion of the lot. The easement dedicated by separate instrument was a requirement of a Lot Split (June 6, 2005) on The Plaza at Cherry Creek Hills Addition. No parcel or tract number was given for the new lot, which is where the proposed vacated easements are located. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. The Plaza at Cherry Creek Hills Addition was recorded with the Register of Deeds July 30, 1999.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted 10-foot easement as described in the legal description with the following conditions.

1. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
  1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time October 13, 2005, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

**B. Therefore, the vacation of the platted easement described in the petition should be approved with conditions:**

- (1) Vacate the platted 10-foot utility easement, as described in the legal description, contingent upon approval by Public Works, Water & Sewer, Storm Water, Westar and any other the franchised utility companies. Retain any easement needed for existing utilities, as recommended by public and franchised utilities. Provided an accurate legal description of the applicant's site and the vacated portion of the easement on a word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any recommended easements for relocated utilities. If utilities are to be relocated, retain the easement until they are relocated.
- (3) All improvements shall be according to City Standards.
- (4) Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 10-foot utility easement, as described in the legal description, contingent upon approval by Public Works, Water & Sewer, Storm Water, Westar and any other the franchised utility companies. Retain any easement needed for existing utilities, as recommended by public and franchised utilities. Provided an accurate legal description of the applicant's site and the vacated portion of the easement on a word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any recommended easements for relocated utilities.
- (3) If utilities are to be relocated, retain the easement until they are relocated. All improvements shall be according to City Standards.
- (4) Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendations.

**JOHNSON** moved, **HILLMAN** seconded the motion, and it carried (11-0).

**3-2. VAC 2005-37: Request to Vacate a Portion of a Platted Alley.**

<b><u>APPLICANTS/AGENT:</u></b>	Catholic Diocese of Wichita	Karl N. Hesse
<b><u>LEGAL DESCRIPTION:</u></b>	Generally described as the western 140-feet of the platted 20-foot alley running parallel to the north lot line of the Reserve and the south lot line of Lot 11, all in JP Hilton's Addition, Wichita, Sedgwick County, Kansas	
<b><u>LOCATION:</u></b>	Generally located between Central Avenue and Elm Street, on the east side of Broadway Avenue (Council District VI)	
<b><u>REASON FOR REQUEST:</u></b>	Building's roof, gutter, will encroach into alley	
<b><u>CURRENT ZONING:</u></b>	The alley is public ROW. Properties located south, north and east are zoned "GC" General Commercial. Properties located east and north are zoned "B" Multi-family Residential. The alley intersects Broadway Avenue on its west side.	

The applicants are requesting consideration to vacate the 20-foot wide (x) approximately 140-foot long eastern portion of the platted alley, as previously described. The Catholic Diocese has development the abutting the north and south sides of the alley including the Lord's Diner on the south side. A portion of the Lord's Diner's roof encroaches in to the alley. There is a sewer line to the east of the proposed vacated alley. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. Staff could not read the date when the plat was recorded, but it can be assumed that the JP Hilton's Addition was recorded with the Register of Deeds in the 1880s.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted alley ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
  1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 13, 2005 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portions of the platted alley ROW and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted alley ROW, described in the petition should be approved with conditions:
  - (1) Vacate that portion of the alley as described. Send Staff the legal description of the vacated portion of the alley via e-mail.
  - (2) Retain the alley as an easement until all comments have been received from all utilities. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of and at the expense of the applicant. If utilities

are moved the alley shall be retained as an easement until all utilities have been relocated and easements have been provided. All public utility easements must be recorded with this Vacation Order

- (3) All improvements shall be according to City Standards, including private drive entrances onto Broadway Avenue or if closing the alley provide a guarantee for the closing of the alley return onto Broadway Avenue and the continuation of the curbing.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate that portion of the alley as described. Send Staff the legal description of the vacated portion of the alley via e-mail.
2. Retain the alley as an easement until all comments have been received from all utilities. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of and at the expense of the applicant. If utilities are moved the alley shall be retained as an easement until all utilities have been relocated and easements have been provided. All public utility easements must be recorded with this Vacation Order
3. All improvements shall be according to City Standards, including private drive entrances onto Broadway Avenue or if closing the alley provide a guarantee for the closing of the alley return onto Broadway Avenue and the continuation of the curbing.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendations.

**JOHNSON** moved, **HILLMAN** seconded the motion, and it carried (11-0).

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**❖ PUBLIC HEARINGS**

4. **Case No.: CON2005-46** – Ridge Point North Homeowners Association, c/o Julie Smith Request Conditional Use to permit a neighborhood swimming pool and playground on property zoned "SF-5" Single-family Residential on property described as;

Lots 12 and 13, Block B, Ridgeport North 5th Addition. Generally located West of the Hazelwood and Brookview Circle intersection.

**BACKGROUND:** The applicant requests a Conditional Use to permit a neighborhood swimming pool and playground on two platted lots within the Ridge Port North 5<sup>th</sup> Addition. The two lots are located west of the Brookview Circle and Hazelwood intersection, on a dead end portion of Brookview Circle. The subject property is zoned "SF-5" Single-Family Residential and is currently undeveloped; the Unified Zoning Code (UZY) requires a Conditional Use for neighborhood pools in SF-5 zoning.

The character of the surrounding area is that of a developing single-family residential neighborhood. All property to the north, south, and east is zoned "SF-5" Single Family residential and developed or being developed with single-family residences. South of the site is a neighborhood water feature, west of the site is a nursing home on property zoned "GO" General Office.

The attached site plan shows a 20 by 40-foot swimming pool and equipment/bath house on the southwest lot. A playground and 10 parking spaces (including two ADA designated spaces) are located on the northeast lot. As proposed, the parking area meets the UZY required one space per 100-square feet of pool area. The proposed parking configuration does not conform to the UZY in that all parking is proposed within the building setback. This configuration would require an administrative adjustment to permit parking within the building setback. Likewise, the proposed parking configuration consumes the south boundary of the north lot, where a landscape street yard would normally be. A parking lot would normally require landscape screening; the proposed configuration would leave no landscaping between the lot and residential neighbors to the south. The site plan does not show UZY required screening where abutting single-family residential uses. The site plan does show landscaping; an approved landscape plan would be required for this proposal.

**CASE HISTORY:** The subject property is platted as Lots 12 and 13 of Ridge Port North 5<sup>th</sup> Addition, recorded in 2003.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5" Single-family residences  
SOUTH: "SF-5" Subdivision Reserve, detention pond

EAST: "SF-5" Single-family residences  
WEST: "GO" Nursing home

**PUBLIC SERVICES:** The subject property has access to Brookview Circle, a dead end two-lane residential street. Water, sewer, and other municipal services are available to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Urban Residential" development. This residential category provides for the lowest density of urban residential land use and consists of residential, as well as schools, churches and similar uses found in such areas. One of the objectives of the Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Land Use Guide and the identified objective of the Comprehensive Plan.

As previously stated, the proposed parking is within the building setback, and would require an administrative adjustment. The UZC requires screening from non-residential uses to residentially zoned property. Likewise, the Landscape Ordinance would require an approved landscape plan for this site but could not comply with parking lot screening requirements. The proposed parking configuration would require a partial waiver of Landscape Ordinance requirements.

**RECOMMENDATION:** Staff has been contacted by the neighboring nursing home and residents on the south side of Brookview Circle, all are opposed to this request. Opposition is based on potential noise, activity, traffic, and parking at the site. Neighboring homeowners state that plans for a neighborhood pool and playground did not exist when they bought and developed their properties. The UZC would require screening from the abutting single-family residents, but not from the abutting nursing home because of its GO zoning classification.

The proposed parking configuration is of some concern. Staff would normally oppose the proposed parking arrangement from a traffic safety standpoint, but this portion of a dead end road will have minimal traffic. Also, staff finds that the proposed parking should be separated from the abutting sidewalk by a three foot landscaped buffer to ensure that parked cars do not present a safety hazard to those using the sidewalk.

Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The applicant shall submit a revised site plan within 60 days of approval, demonstrating screening in accordance with Section IV-B.3.a. of the Unified Zoning Code, the site shall be developed in general conformance with the approved site plan.
2. All parking spaces shall be separated from sidewalks by a three foot landscaped buffer.
3. The subject property shall be developed in accordance with the regulations of the Landscape Ordinance per an approved landscape plan.
4. Prior to the issuance of a building permit, a zoning adjustment to permit parking within the front setback shall be acquired.
5. Outdoor lighting shall be limited to 14 feet in height, and shall be shielded downward and away from all neighboring properties.
6. Development and use of the subject property for a neighborhood swimming pool and playground shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards.
7. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of a developing single-family residential neighborhood with a neighboring nursing home. All of the surrounding residential properties are zoned "SF-5" Single Family residential and being developed with single-family residences or subdivision reserve features. A "GO" General Office zoned nursing home borders the site to the west. A neighborhood swimming pool is accessory to and customarily associated with the zoning, uses, and character of a low-density residential area.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: Locating a neighborhood swimming pool within a residential development will introduce more traffic and noise for the nearby residential properties. The recommended conditions of approval pertaining to screening, lighting, and landscaping should mitigate these potential problems. Introduction of unscreened parking areas could have a negative aesthetic affect on residential neighbors. Proximity to the neighborhood pool and playground could make nearby residences and residential lots more or less attractive, depending on the perspective of potential buyers.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Urban Residential" development. This residential category provides for the lowest density of urban residential land use and consists of residential development, as well as schools, churches and similar uses found in such areas. One of the objectives of the Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Land Use Guide and the identified objective of the Comprehensive Plan. The proposed site plan does not meet the screening requirements of the Unified Zoning Code, it would require an administrative adjustment to allow parking within the building setback, and it would require a waiver of Landscape Ordinance required parking lot screening.



4. Impact of the proposed development on community facilities: The proposed swimming pool will increase trips to the site, but the impact should not exceed the capacity of the street. Many neighbors will have easy pedestrian access to the site because of its location.

JESS MCNEELY Planning staff presented the staff report. I would note that District Advisory Board 5 will hear this next week, November 7<sup>th</sup>. You should have a letter in front of you submitted by an opposing neighbor. Staff has spoken quite a bit with residential neighbors on the same street from the proposed pool, and across the street from the proposed playground. We've been advised that Via Christi, which runs a nursing home immediately west of this site, is opposed to this application as well.

ALDRICH What is the footage from pool area to the assisted living center?

MCNEELY From the pool facility itself to the assisted living facility is probably between 30 and 50 feet. I would note that this request would require screening that meets the Unified Zoning Code definition of screening between the application area and the single family residential lots but the Zoning Code would not require screening between this application area and the General Office zoned nursing home.

MCKAY We can make that a recommendation.

MCNEELY Yes.

WARNER Is there restriction on hours of operation?

MCNEELY We've not made a recommendation regarding hours of operation restrictions, that's something you can ask the applicant about, if they will be willing to consider that. Our recommendations really are in being consistent with our previous recommendations on previous similar applications that have gone before this body.

STEVE STARK ATTORNEY WITH FLEESON, GOOING, COULSON & KITCH LAW FIRM I'm here to represent the Ridge Port North Homeowners Association. I would like to turn the substantive discussion to Mike Erickson; he is one of board of directors for the Association and also Chair of the Association's pool committee.

MIKE ERICKSON 6302 W. Brookview Street, I am a member of the board of the Ridge Point North Homeowners Association and the Chair of the Committee that has been considering this project for sometime. This plan is brought to the board with substantive support among residents within that area. There's been a long-standing interest in our neighborhood from the beginning of the Ridge Point North development, and discussion and an attempt to identify lots where we could have a community pool and playground since it was not a part of original development plan. When these lots became available in this 5<sup>th</sup> Addition we held a Homeowners Association meeting with the presentation, questions and answers for all residents and a vote was held according to our bylaws on whether to purchase lots for that community for community use with an indication at that time of what those lots would be for, although a majority of the community knew that it would probably either be for green space, for a play ground or for a pool. That particular vote was 34 to 35 in favor of purchasing those lots. We did a survey what they're preference would be for the development of those two lots. The overwhelming majority of feed back we got back from surveys was the #1 priority was a pool on those two lots, and the #2 priority was a playground. We had a Homeowners Association meeting to discuss and vote on the proposal to fund the development of a pool and playground. We held that June 12<sup>th</sup>. According to our bylaws, a vote was held either to increase Homeowners Association dues specifically for the purpose of funding a pool and a playground on those two lots. Seventy percent of the people that voted, voted in favor of increasing their homeowners' dues so we could have a pool and playground. By the time we were notified that the 5<sup>th</sup> development was under development builders in that area owned all of the lots. This is the last addition of the Ridge Point North development. It represents the last opportunity for the 215 households in that area for a neighborhood pool and playground. We wanted to be sure we could proceed with development. We have support of the community to fund the purchase of the land, and we have support of the community in the form of a increase in their Homeowners' dues to develop this land into a pool and playground area, and the ongoing maintenance cost associated with that, and we have secured financing that will be required from a lender that's available immediately if you approve our plan to proceed. We have attempted to address all of the concern of residents the best of way we could from the area, and modified some of our original plans based on those recommendations, including handicap accessibility because we do have residents with disabilities, and attempted to include them in comments and suggestions on how to develop the land. Mr. Jeff Preston couldn't be here. We have spoken to him and he is actually a member of our pool committee. He's seen the plans for the pool before we moved forward, and is in support of our project. We're asking the Commission to approve this zoning change for a project that has brought community support. We will proceed rapidly if the change is granted. It will be an enhancement to our neighborhood and our community.

ALDRICH Do you have set hours of operation that you'd be looking at?

STARK We have not set hours yet. We want to be good neighbors. We indicated there would be hours of operation. Suggestions have been made as to 9pm, 10pm. Nothing has been decided but that certainly already has come up, and we're certainly agreeable to any sort of suggestions of appropriate hours of operation.

HILLMAN I'm a little interested in the votes that you were talking about earlier. The votes for and against at that time didn't even total close to 215. What number really is in your association? Tell me more about that, how you determine which of the 215 Homeowners are going to be a part of your process.

STARK The 215 number I mentioned; when the development is completely populated or fully developed with single-family homes. That would be all the 5<sup>th</sup> addition when it's completed. When we took the votes, I'm uncertain as to how many actual paying homeowners there are, and our bylaws state that you have to have dues current to vote. When we took the vote on the purchase of the land, I believe there were approximately 100 to 120 homeowners that had their dues current, and there were 39 votes taken. When we held the vote in June for the increase in dues there were 120 potential residences that could vote, and we had 66. We cannot require people to vote or not vote.

DUNLAP What percentages of the lots are sold?

STARK To actual homeowners?

DUNLAP No, how many individuals have bought lots in the 5<sup>th</sup> addition?

STARK I'm uncertain.

DUNLAP Is it one half, one third?

STARK I would say probably 30%. Not counting the ones to the north maybe only 20% or 25%. The 5<sup>th</sup> Addition extends up about 15 homes to the north.

DUNLAP The majority of the 215 is not in the 5<sup>th</sup> Addition; it's somewhere south of there.

STARK Yes, it's on 34<sup>th</sup> Street that you can see south of the lake.

HILLMAN As I see there's nine regular parking stalls and two stalls for handicap is that correct?

STARK Yes.

HILLMAN Do you believe that's sufficient for the entire development when that gets completed?

STARK We looked at what the code was, and I think that's better than actual city code. We visited some other Homeowners Associations and looked at off street parking. That is generous compared to other developments. There's quite a bit of foot traffic in the neighborhood, however I will grant that with some of the residents south of the lake will probably be the ones to drive around.

MONTY WARREN 3636 N. Ridge Road I'm representing Via Christi. The only problem we have on this is a couple of things. One is the noise and you already addressed that, and I think hours of operation will offset that. The other thing is, we would like to have a fence barrier go in between the two property lines just to keep coming people from coming over to our side of the property. A lot of our residents go to bed at 8:30 or 9:00 pretty much year around.

MARNELL Don't you have a fence.

WARREN Yes we do, it just goes around the backside of our building, which encloses the backside.

MCKAY Your asking them to put another fence up?

WARNER is there not a requirement for a swimming pool to have to be fenced so people can't fall in?

DALE MILLER Planning staff Health Department requires it to be fenced so someone just can't wander in; it could just be around the concrete apron pool area. It wouldn't have to be around the perimeter of the property.

WARNER would that suffice?

WARREN The other side of it too. We would like to have some kind of barrier for the noise coming across the fence from the pool area and playground.

MARNELL What kind of fence are you requesting that be added to this?

WARREN We've talked about wrought iron, concrete barrier, we're open to that.

MARNELL Is your facility a two-story facility?

WARREN Yes.

MARNELL I guess I'm having a difficulty how that would apply in that situation.

WARREN We had talked about them planting trees to help absorb the noise from coming in across that line.

VIRGINIA BRYANT 6523 W. Brookview Circle you have a copy of my statement in front of you and additional pictures for you. I have some other things to add to this. Is this appropriate place for a pool? We are not opposed of a pool or playground it's the location. When we bought our home back in October 30, 2004, we were told there would never going to be a pool or playground. We were never notified of this. We bought for the quietness. Since we moved there the potential problem we have is the streets are not wide, it's narrow. Another issue, I don't enjoy looking at a playground and parking lot. I really didn't want any extra noise coming from the pool area. My biggest issue is we were never notified of this. If we would have been notified we probably wouldn't have built there.

HENTZEN Do you have a set of covenants for that Homeowners Association?

BRYANT Yes.

HENTZEN Does it mention anything about pool or prohibition of a pool?

BRYANT No.

HILLMAN How long after you purchased the lot did you become a member of the Homeowners Association?

BRYANT When I closed on my house, in May.

HILLMAN This year?

BRYANT Yes, 2005. One more comment, when we have visitors over where they going to park?

WILLIE ROBINSON 3411 N Ridge Port Street Due to the fact, it does increase of Homeowners Association dues, there's a few of us ready to move out due to the vexation of our taxes plus increase of our dues. That really bothers me a whole lot. We bought our home for the quietness, plus the Homeowners' dues were very reasonable. Building a swimming pool will increase traffic. We feel that building a swimming pool will be an increase that will be passed on to the homeowners, which I'm not willing to pay at this time. We don't know what maintenance costs will be.

Change tape

STARK On behalf of Via Christi's common property line, that would be something we would be happy to do in excess of whatever the landscaping code would require. With regard to comment about notification, we're in a tough spot. I believe the Association has gone through all the hoops they needed to go through in accordance with covenants, bylaws, rules. Everybody got due process.

MCKAY I want to ask this of staff. Tell me what are the requirements for landscaping?

MCNEELY We recommend they meet the landscape code. In their current configuration it would require a waiver of parking lot screening on their south boundary. We would recommend if you approve their current configuration that a three-foot landscape buffer be inserted between the north end of the parking stalls and the sidewalk.

MCKAY Your saying on Brookview Circle where the parking lot is, that you would not have any landscaping there?

MCNEELY We're recommending a landscaping buffer between that row of parking spaces and the sidewalk. It would be a three-foot strip of landscaping

MCKAY That's not shielding the two houses across the street. Is there any reason why that configuration not could be a driveway with a three-foot buffer along that street between the houses on Brookview Circle?

MCNEELY You could recommend that the site plan be reconfigured to have a parking lot that meets the parking lot landscape screening.

MCKAY They have excess land on the playground.

MCNEELY This configuration does use up less of the green space for the playground, that's the trade off.

MCKAY The landscaping requirements backing into nursing home?

MCNEELY There is no landscape-screening requirement between this property and the nursing home. That would be a condition this body would need to add.

MCKAY On the east side of the pool area between it and the existing property to the south, is there a requirement there?

MCNEELY Yes, there's a screening requirement between this application area and any abutting single-family residential properties.

MCKAY I think this building could be classified as a buffer?

DONNA GOLTRY No, they should have a landscape buffer between the east side of pool area and the residents' next door.

MCKAY This configuration of landscaping is stuff is really not...

MCNEELY It does not meet landscape code. If you read our conditions, one of our conditions is that they submit a landscape plan that meets landscape code, and they reconfigure their site plan to meet screening requirements of the zoning code.

MCKAY The only problem I have is something like this is.

HILLMAN Is the structure of the pool and concrete around it, is it fenced?

MCNEELY Yes.

HILLMAN What's the height of the fence?

MCKAY 6-foot.

MARNELL Where they have playground equipment in that north lot, when you look at the lot to the south, Lot 13, there's an area that shows trees, and it looks to me like there's equivalent space where both the pool and playground can be in the south lot and parking on the north lot. Is there anything preventing that from happening?

MCNEELY No.

**MOTION:** Approve subject to staff comment with the provisions that the applicant work with Via Christi on a landscaping arrangement along the common property line.

**MITCHELL** moved, **MARNELL** seconded the motion.

MCKAY Can you amend that on the parking across the street, the configuration be a buffer between that parking? Slide the parking three feet and it will work. That would solve part of the problem the people were having parking on the street.

MITCHELL I have no objection if that could be done and not materially change the project.

MCKAY If you didn't have lots on Lot 12 leftover it may be tough, there's plenty of room to move a building a little bit.

JOHN SCHLEGEL Staff would like clarification of what you're talking about. You're talking about a three-foot buffer on the right-of-way line to parking area.

MCKAY They are showing backing straight out on the street. I'm saying slide that parking area to the north so they come in on the drive. I would suggest the drive be at the extreme east end of that parking area.

WARNER To do that you will need to move the parking 20 feet.

MCKAY You have to have 60 feet to back out.

GOLTRY 42, 18 for the parking spaces plus 24 for two-way drive. You could also look at a one-way parking plan.

MCKAY That might be the best thing.

MARNELL I'd like to ask the motion maker if they'd be interested in a change in the motion to have the issue of the landscaping be approved by the Planning Director as opposed to Via Christi? I don't like giving one property owner the hammer over another one.

MITCHELL I agree.

MARNELL Does the second agree?

WARNER What's the motion?

MITCHELL The motion is to approve subject to staff comments, landscaping along the common property line with Via Christi being done in accordance with a approved plan by the Director of Planning with input by Via Christi and a change in the parking lot and playground lot.

WARNER Is that a one way drive?

MCKAY I think they will need to figure that out.

MCNEELY I think a way to craft the parking screening portion that you were speaking of would just be to state that condition to say that the parking lot shall meet the landscaping code parking lot screening requirement.

MCKAY Not necessarily. If they go by the landscape code it has to be to the property line, to the right-of-way.

**MOTION Carried: 11-0**

5. **Case No.: CUP2005-49 DP288 and ZON2005-46** – Wal-Mart Real Estate business and Wal-Mart Stores (collectively) (owners); Spear and McCaleb Co, PC, c/o Terence L. Haynes (agent) Request The creation of Meridian Valley Community Unit Plan; and Zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on property described as;

Tract I:

Lot 1, Block A, MAIZE STATE BANK ADDITION to Sedgwick County, Kansas.

Tract II:

A tract in the Southeast Quarter of Section 13, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, described as the East 675.07 feet of the South 1,454 feet thereof, except the South 375 feet of the East 375 feet thereof, and except roads.

Tract III:

A tract of land located in the Southeast Quarter of Section 13, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the Southeast corner of said Southeast Quarter; Thence North 89 degrees 57'37" West, along the South line of said Southeast Quarter, a distance of 675.07 feet to the Point of beginning; Thence continuing North 89 degrees

57'37" West, along the South line of said Southeast Quarter, a distance of 220.53 feet; Thence North 00 degrees 48'32" West, parallel with the East line of said Southeast Quarter, a distance of 1454.00 feet; Thence South 89 degrees 57'37" East, parallel with the South line of said Southeast Quarter, a distance of 220.53 feet; Thence South 00 degrees 48'32" East, parallel with the East line of said Southeast Quarter, a distance of 1454.00 feet to the Point of Beginning. Generally located on the northwest corner of Meridian Avenue and 53rd Street North.

**BACKGROUND:** The applicant proposes to create a commercial Community Unit Plan containing approximately 27 acres located on the northwest corner of Meridian and 53<sup>rd</sup> Street North. A 2.2-acre tract nearest the intersection already is zoned "LC" Limited Commercial. "LC" zoning is requested for the other 24.7 acres.

The CUP would allow most uses permitted by right in "LC". The following uses would be prohibited: night club, sexually oriented business, tavern and drinking establishment, correctional placement residence, safety service, pawn shop, agricultural sales and service, commercial wireless communication facility, and theatre. A car wash would be permitted only in compliance with supplementary use requirements of the Unified Zoning Code, which would require a CUP amendment (in place of Conditional Use approval) if the proposed parcel for the car wash was located within 200 feet of residential zoning.

Parcel 1, the main parcel, is 23.99 acres and is designed as a Wal-Mart site, including a tire and lube express, pharmacy with drive-through and garden center with drive-through bag goods area. A future fuel outlet site within Parcel 1 is located south of the main Wal-Mart site and parking lot near the drainage reserve. Parcel 1 has a narrow frontage connecting to 53<sup>rd</sup> Street North and a long frontage of about ¼ mile on Meridian.

Parcels 2 and 3 are 1.5 acre parcels along 53<sup>rd</sup> Street North, most likely designed for restaurants or similar typical out-parcel uses. The area nearest the intersection is shown as a separate drainage reserve (1.22 acres in size), and the northernmost 80 feet of the site is another detention area.

Setbacks are 35 feet on perimeter of property. Maximum gross floor area and maximum building coverage is 30 percent. Building height is measured by the Unified Zoning Code as the height at the midpoint of a gabled roof or highest point on a parapet or flat roof. The building height would comply with a maximum height limit of 35 feet using Unified Zoning Code measurement protocol.

The buildings would share the uniform architectural character, color, texture and the same predominant exterior building material. Parcel 1 would use earth-tone colors in a variety of textures with dark blue accents. Metal as an exterior material would be limited to incidental accent. The main exterior building materials shown on elevations for Parcel 1 are split-faced and smooth-faced CMU with EIFS gabled ends and pilasters. Although the building is immense, the elevations submitted show articulation with banding, pilasters, variations in rooflines and projecting building areas to break up the mass of the building.

The parcels would share similar or consistent parking lot lighting elements. The maximum height of lighting standards, including base, pole, fixture and lamp, would be 25 feet high within 100 feet of residential zoning and 42 feet on other portions of the site. All lights, including wall and pole mounted fixtures would be shielded to direct light downward.

The CUP calls for an eight-foot screening wall meeting CUP requirements (masonry, concrete, etc, but not including wooden fence or woven wire) on the north and west adjacent to residential zoning. The dumpster on the north would have an eight-foot concrete screening wall on its north and east side to screen the dumpster from Meridian and the properties east of Meridian. The dumpster on the west would have an eight-foot concrete screening wall on its south to screen it from view of 53<sup>rd</sup> Street North. Also, the outdoor work area for bales and pallets is to be screened with an eight-foot concrete screening wall on the east, north, and west sides, with stacking above the height of the screening wall prohibited.

The garden center and the tire and lube express are proposed for location on the east end of the building. These uses typically create a higher need for screening adjacent to a major arterial and across from residential. The garden center shows a drive-through bag goods area with a high rack storage system along this frontage. The proposed screening method for garden center bag goods drive-through is (1) a 4'8" knee wall and pilasters (EIFS) along the edge of the rack system, (2) a ¼" x #18 metal wire panel and ornamental metal fencing attached to the high racks, (3) continuous evergreen screening.

Ground signage for Parcel 1 would consist of two major signs with a maximum height of 30 feet and maximum sign face area below 150 square feet and one smaller sign with a maximum height of 20 feet and sign face area of 32 square feet. Signs would be monument type or dual pylon with wrapped pole covers. Parcels 2 and 3 would be monument type with a maximum height of 20. Ground signs would be spaced 150 feet apart. Off-site signs and portable signs would be prohibited, as would be flashing, moving (except for time and temperature or public message boards or signs that change messages sufficiently slow as to not be considered a moving sign), rotating signs, string lights, balloons, pennants and banners except as allowed in all zoning districts. The wall sign plan for Parcel 1 submitted by the applicant includes are larger number of signs than permitted by the Wichita Sign Code per elevation. Considering the size of the wall area, the actual square footage of signage requested is very modest and helps break up the mass of the wall.

To the north and west the land is zoned "SF-20" and is undeveloped. A larger residential plat, Northgate Addition, is being platted to the northwest. The northeast and southeast corners of the Meridian/53<sup>rd</sup> Street North intersection are zoned "LC". A convenience store, a vacant tract approved for a car wash, and a recently constructed mini-storage warehouse business are on the northeast corner. The remaining frontage east of Meridian is developed with suburban residences zoned "SF-5". Relatively old (50+ years) are located on the southeast corner of the intersection. The property to the south is zoned "SF-20" but a request has been filed to rezone it "LC" and approve it for development per the Johnson Commercial Center CUP (ZON2005-00042/CUP2005-00046).

**CASE HISTORY:** The property zoned "LC" is platted as Maize State Bank Addition, recorded December 7, 1983. The rest of the tract is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-20"	Agricultural
SOUTH:	"SF-5"; "LC"; "LI" Vacant, fuel storage tank farm	
EAST:	"LC"; unzoned	Highway maintenance facility, suburban ranches
WEST:	"SF-5"; "SF-5"	Vacant, suburban

**PUBLIC SERVICES:** Meridian is a major county arterial connecting Valley Center to Wichita. Currently it is a four-lane curb and gutter street with arterial sidewalk along the east side. 53<sup>rd</sup> Street North also is a major arterial. The road is widened at the intersection; then tapers to two lanes with shoulders. West of the site, an Arkansas River bridge was recently rebuilt with sufficient width to accommodate four lanes plus the protected pedestrian lane.

A traffic study prepared by Transportation Engineering Consultants, Inc. (September 9, 2005) evaluated the potential impact of base traffic, projected general growth in the area, and additional traffic predicted to be generated by the proposed development. No similar study was prepared for the commercial site to the south and it would be expected also to increase traffic volumes in the vicinity.

Requested access consists of three openings on Meridian. The one nearest the intersection would be right-in/right-out only. The second opening would be aligned with 54<sup>th</sup> Street North and be the main Meridian access; it is proposed for signalization. The northern full-movement entrance is primarily for service vehicles. On 53<sup>rd</sup> Street North, the main entrance is located at the western edge of the tract. Two "future entrances" are shown for each parcel. The access for Parcel 2 would be right-in/right-out only. The access for Parcel 3 would be full movement but be designed primarily to serve the parcel and not to funnel large volumes of traffic to the internal circulation drive and Wal-Mart parking field. This can be accomplished by locating the northern connection to the internal circulation drive either as a joint access on the parcel boundary with Parcel 2 or otherwise being offset from the alignment on 53<sup>rd</sup>.

Based on results from the traffic study, transportation improvements are requested for accel/decel lanes and left-turn center lanes as follows. A petition would be required at the proposed signalized entrance at 54<sup>th</sup> Street North and Meridian to provide for a southbound right turn lane based on the projected PM peak southbound right turn movement of 109 (Fig. 6 from TIS). The length and taper would be determined at time of platting. A petition would be required to provide for a fifth lane (left turn lane) on Meridian from the proposed signalized drive to the tie-in point with the existing southbound left turn lane at 53<sup>rd</sup> Street North. Marking for the lane would be determined at a later date. A petition would be required to provide for an eastbound left turn lane on 53<sup>rd</sup> Street North beginning west of the west drive to the tie-in point with the existing eastbound left turn lane at Meridian. DP-288 (this development) should be responsible for that portion west of the entrance into Parcel 3, and the development to the south should be responsible for that portion from the Parcel 3 drive to the tie-in with the existing lane (at 53<sup>rd</sup> Street). Finally, a petition would be required to provide for a westbound right turn lane for the west drive on 53<sup>rd</sup> Street North and for the drives into Parcels 2 and 3. This westbound right turn lane should begin with a taper and 100' of storage to the east of the Parcel 3 entrance, and it should terminate at the west drive. This comment is based on the aggregate peak right turn projections into the three drives (109 in the AM peak and 208 in the PM peak) all within the 410' frontage between the drives.

Other normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial" at the corner, and "urban development mix" for the rest. Urban development mix was seen as primarily being a mix of urban residential uses but with some other local commercial and institutional uses. It also stated, "In certain areas, especially those with proximity to the future Northwest Bypass, there is the possibility that future uses may include Regional Commercial and Employment/Industry Center." This could be viewed as one of those areas since it is the crossroad between a major county arterial (Meridian) connecting Valley Center to Wichita and a strong county arterial (53<sup>rd</sup> Street North) connecting the Riverview, North Broadway and Park City corridor on the east and to Maize/K-96 five miles to the west.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with Strategy III.B.1 seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and Strategy III.B.2 seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. Commercial Locational Guideline #3 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines for minimizing detrimental impacts and planned development.

**RECOMMENDATION:** The request exceeds the expectation of the intensity of development on the May 2005 amendments to the Comprehensive Plan. However, the Comprehensive Plan indicates that certain sites with the "urban development mix" classification may be suited to regional commercial development. Currently very little residential exists to the west of the site and much of the area to the west and north will remain undeveloped because of large amounts of flood plain associated with the Arkansas River. However, the site is at the crossroads of two major county arterials that connect small cities to Wichita and to major expressways. Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2005-00046) subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-288), subject to the following conditions:
  - 1. Dedicate ten feet of right-of-way along 53<sup>rd</sup> Street North, tapering into existing 75 feet right-of-way width near intersection.
  - 2. Shift location of "future drive" on Parcel 3 westward 10 feet to better align with private drive on the CUP proposed to the south.

3. Cross-lot circulation and connection to the internal circulation drive shall be provided for each parcel, with the connection to the internal circulation drive for Parcels 2 and 3 being a joint opening located at the northern property boundary between Parcel 2 and Parcel 3.
4. Provide a guarantee for signalization at 54<sup>th</sup>/Meridian.
5. A petition should be required at the proposed signalized entrance at 54<sup>th</sup> Street North and Meridian to provide for a southbound right turn, with length and taper to be determined at platting.
6. A petition should be required to provide for a fifth lane (left turn lane) on Meridian from the proposed signalized drive to the tie-in point with the existing SBLT lane at 53<sup>rd</sup> Street North.
7. A petition should be required to provide for an EBLT lane on 53<sup>rd</sup> Street North beginning west of the west drive to the tie-in point with the existing EBLT lane at Meridian. The CUP should be responsible for that portion west of the entrance into Parcel 3, and the development to the south should be responsible for that portion from the Parcel 3 drive to the tie-in with the existing lane (at 53<sup>rd</sup> Street North).
8. A petition should be required to provide for a westbound right turn lane for the west drive on 53<sup>rd</sup> N. and for the drives into Parcels 2 and 3. This WBRT lane should begin with a taper and 100' of storage to the east of the Parcel 3 entrance, and it should terminate at the west drive.
9. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
10. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
11. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
12. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-288) includes special conditions for development on this property.
13. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: To the north and west the land is zoned "SF-20" and is undeveloped. A larger residential plat, Northgate Addition, is being platted to the northwest. The northeast and southeast corners of the Meridian/53<sup>rd</sup> Street North intersection are zoned "LC". A convenience store, a vacant tract approved for a car wash, and a recently constructed mini-storage warehouse business are on the northeast corner. The remaining frontage east of Meridian is developed with suburban residences zoned "SF-5". Relatively old (50+ years) are located on the southeast corner of the intersection. The property to the south is zoned "SF-20" but a request has been filed to rezone it "LC" and approve it for development per the Johnson Commercial Center CUP (ZON2005-00042/CUP2005-00046).
2. The suitability of the subject property for the uses to which it has been restricted: The proposed CUP is located along two arterial roads where commercial development would be anticipated, although not necessarily to the scale proposed by this development. The property could be developed with a smaller complement of local commercial uses and urban use, which might require rezoning/CUP also, but at a smaller scale.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The main impact is on the single-family residents directly across Meridian to the east, and less directly to the residential neighborhood east of Meridian.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial" at the corner, and "urban development mix" for the rest. Urban development mix was seen as primarily being a mix of urban residential uses but with some other local commercial and institutional uses. It also stated, "In certain areas, especially those with proximity to the future Northwest Bypass, there is the possibility that future uses may include Regional Commercial and Employment/Industry Center." This could be viewed as one of those areas since it is the crossroad between a major county arterial (Meridian) connecting Valley Center to Wichita and a strong county arterial (53<sup>rd</sup> Street North) connecting the Riverview, North Broadway and Park City corridor on the east and to Maize/K-96 five miles to the west. Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with Strategy III.B.1 seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and Strategy III.B.2 seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. Commercial Locational Guideline #3 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed CUP is in general conformance with the Comprehensive Plan commercial objective/strategies and land use locational guidelines for minimizing detrimental impacts and planned development.
5. Impact of the proposed development on community facilities: The proposed traffic improvements are intended to mitigate traffic impacts. Drainage impacts will be evaluated at time of platting.

DONNA GOLTRY Planning staff presented the staff report. DAB did bring up the concern with a filtration system for the fuel outlet; they were concerned that the fuel residue might pollute the equus bed. That's another drainage definition issue that I think I'm not qualified to talk about. The bike path does go along this area. I had some discussions with Engineering staff whether there is ample room for bike path with the 120 feet of right-of-way that will exist between those properties to the north and to the south. They seem to think so. I think it's my duty to let you know.

MITCHELL out @ 2:45

ALDRICH I have the same questions as last time, it pertains to an economic study. I'm wondering why we don't have that part.

GOLTRY Demonstrating the economic impact or demonstrating the market feasibility of a zoning request has not been one of the golden rules we have used for one of our recommendations.

ALDRICH Do you think that might or should be part of a recommendation?

GOTRY I think I shouldn't comment on that.

DUNLAP Donna, you mentioned a car wash, is it part of their application?

GOLTRY No, it's not but they did hold out the possibility that they could have one in the fuel outlet, and if they don't have any zoning within 200 feet it could be a by right use.

DUNLAP They probably don't know one has been approved right across the street

GOLTRY Yes, they do and that's one reason why I didn't think it's appropriate to say absolutely not because that would be different from what's approved just across the street.

MCKAY Who is going to run the fuel outlet?

GOLTRY The Wal-Mart subsidiary I presume.

MCKAY But its part of the Wal-Mart parcel.

GOLTRY Yes. It's part of the Wal-Mart parcel, they own them as a unit.

DUNLAP That name trigger some emotion.

MCKAY To say the least.

HILLMAN Looking at the map on this, continuing east along 53<sup>rd</sup> how many lanes of traffic are available to absorb the flow into existing neighborhoods.

GOLTRY It's four lanes. They just did a reconstruction project along 53<sup>rd</sup>, within the last two years. It's been recent.

HILLMAN The intersection, your really talking in terms, including the off lane perhaps to go north on Meridian on the street heading west and a bypass, your talking at the intersection about 6 lanes or 5?

GOLTRY At the intersection you will have at least 6 lanes, because you will have two thru lanes in each direction; you will have a center turn lane, a decel accel lane and that is actually pretty much in place today. But where we are asking them to pick it up is further north because we already have center turn lanes going on at the intersection right now, and the intersection is widened on the west of 53<sup>rd</sup> and tapers back to two lanes.

HILLMAN I would agree, a center lane at least.

APPLICANT OWEN BUCKLEY R H JOHNSON COMPANY, KANSAS CITY MISSOURI 801 W. 47<sup>th</sup> Street, #219, Kansas City, MO 64112 We're the real estate broker and consultant representing Wal-Mart in the Wichita market. We have been involved in five of the six super centers that are here in the market presently. I'm here today with our real estate team, our land use attorney, Christine Bushyhead with White Goss Law Firm out of Kansas City, Missouri, Terry Haynes and his associate Jarvis Walters with the Spear McCaleb Engineering Firm out of Oklahoma City, and Doug Thompson with Law Kingdon Architects right here in Wichita. Thank you very much for the opportunity to appear before you today. We and Wal Mart are very excited about the possibilities of placing a store at this intersection. This part of town, as I mentioned, this would be the seventh super center store in the metropolitan area. Wal Mart's decision to add a store to a market such as Wichita is basically based on three things: their experience in operating similar stores in similar markets, strong demographics in the area and a strong response to the existing area stores surrounding this location. The site at 53<sup>rd</sup> Meridian was chosen after extensive review of many sites, and 53<sup>rd</sup> and Meridian was primarily chosen because of its availability. The fact that it captured our targeted customer market, and it possessed what we felt the necessary elements for a successful sustainable retail development. That it was on a corner of two major arterials, Meridian being the north/south and 53<sup>rd</sup> being the east/west, and its proximity to two main highways and an interstate. We also, in our professional opinion, felt the corner was appropriate for this type of retail use. Also commercial development at this corner was projected in your city's long-range plan. We appeared in front of the District Advisory Committee on October 19<sup>th</sup> and we have also, since that time, contacted the nine adjacent homes directly across the street on Meridian just to the east, two of which are slightly north of our north property line. We contacted them to basically discuss the project in greater detail, and to hopefully address some of their concerns, and listen to their concerns, and also to possibly come up with different ideas on how we could further mitigate the impact of this development. We did this in phone interviews, and we also conducted a lunch today in the offices of J.P. Weigand Company in which all nine homes were invited, and four of the homes showed up. It's tough because some people are working. In that meeting, and in the phone interviews we conducted the main concerns were traffic, property values and security. We feel like our plan and our study properly address and mitigate these. Today in our meeting we discussed the eight-foot fence and the berming and the trees were doing. As far as mitigation requests today from the neighbors there were basically three. One would we consider extending the eight-foot wall that we currently have on the west and north side of property, extend it along Meridian. Two, they requested Wal Mart to consider purchasing their homes. Three that the City consider maybe taking advantage of the fact we brought the sewer line up to this intersection that perhaps the neighbors could tap into that, and do away with their septic system that might be a positive result. We worked very hard with City Planning staff over the past several months. I feel like Wal Mart has really stepped up on this in this case. I've been involved in a lot of Wal Mart projects, most of them here in Wichita. This will be the nicest looking store. It will be the best landscaped. It will be the best bermed. It will have the best screening of all the stores



they done. We're very excited to present this to you. To get into more of the technical issues, I'd like to introduce Terry Haynes, and then we will both be available for questions.

TERRY HAYNES SPEAR AND MCCAULEY To address Donna's comments on the staff comments, we are in agreement with the 13 comments as she discussed. On comment #5 which is the southbound right turn lane at the signalized intersection of 54<sup>th</sup> Street, I did speak with Paul Gunzleman, Transportation Engineer. We did provide him with an addendum to the original report which shows that the intersection will operate at a good level of service, the level of service A, if you're familiar with service types in traffic engineering, at all points from this point through 20 years into the future. He agreed that I could mention that we are in discussion on that. He has taken another look at this, and also would like to sustain what Donna said as far as to comment #5, with regards to comments with the location of driveway across the CUP on the south side of 43<sup>rd</sup> Street. We've located our driveways per the traffic access management policies of the City of Wichita and the County, which require a certain space limitations on the out parcels. The driveway for Parcel 3 is a full access driveway. It is located more than 400 feet from Meridian, which again complies with the traffic access management policies. The driveway to Parcel #2 would be a one way in and one way out driveway. It's also located 200 feet from the full access driveways along 53<sup>rd</sup> Street. That addresses that question. There was a concern raised along 53<sup>rd</sup> about placing a median in 53<sup>rd</sup> Street where we would have lane widening but a median placed in front of the right-in, right-out driveway to Parcel #3. I'll leave that to staff to make the final decision. It will impact our developments across the street to the south more than it will impact our development. We will plan to petition the City to make the improvements along 53<sup>rd</sup> Street. I heard the question about Meridian. Again, our recommendation and we support staff recommendations as far as the widening of Meridian to five lanes through 54<sup>th</sup> Street and five lanes would also be supportive of a traffic signal at 54<sup>th</sup> street.

ALDRICH I attend the District Advisory Board meeting VI when this was brought up. Their concern was landscaping. That Wal Mart has never had a history of loving trees. So you don't have any problems to go beyond recommendations as far as landscaping?

HAYNES No problems whatsoever.

ALDRICH And again the other ones Donna brought up had to do with the retention pond. As far as an environmental impact on the fuel deal, I'm not sure what we need to do on that.

HAYNES I can go ahead and answer your question on that. The question was raised about the fuel location. What if there was a spill at that location? Its proximity to the detention pond, I've had quite a bit of time to think about it. I've some neighbors that we discussed it with today bring that up again. It's no different than having a fuel station next to a street or next to drainage channel along a street that may not have curb and gutter. I provided the gentlemen from the District Advisory Board a copy of a study that was conducted for a project in Oklahoma, which shows the amount of particulates dropped on to the ground from vehicles and equipment, and also hydrocarbon dropped off the ground after they wash off cars. This study shows how much material can be collected and we're committed to as part of the gas station to put in a storm sewer system which is a catch basin that is designed to collect the particulates off vehicles, and is also designed to catch any of the floaters, the hydrocarbons that would come off storm water run off that is to help protect us down stream. The detention pond that you referenced is a dry detention pond, not a wet detention pond. I tried to explain if it were to be wet, and we had hydrocarbons washed and gasoline washed into the pond, then it would float. It can be gathered up. A dry detention pond is easier to clean, and also we have issues with the soils that are very sandy so it would not hold water. There would be a quite a bit of other work that would have to go on to be able to hold water as a wet pond.

ALDRICH I know that brought up his concern that we were contaminating the Equus beds.

DUNLAP Are you the contract purchaser or is this already purchased property?

HAYNES I'm sorry sir.

DUNLAP Is this a contract to purchase subject to the zoning or has it already been purchased?

HAYNES No, it's contract to purchase subject to zoning.

DUNLAP I think I'm refreshingly hearing that you have not been asked to limit your development in any unusual way is that correct?

HAYNES I'm trying to be as good of a neighbor as we possibly can.

DUNLAP I'm looking at it from the other side. Did we as a community impose restrictions on you that you did not anticipate or were hard to comply with?

HAYNES Over the past number of years the developing super centers and wanted to be a good neighbor looking at the site. We actually approached staff with many of these improvements before they were implied on us. The increased landscaping, the buffer zones we did argue, if you will, some of the screening but we came back around and agreed to the screening of the storage areas back of the building. Again with our history with the city and the use of container storage on other sites.

DUNLAP Let me see if I can nail that down just a little bit, what I'm getting to, you have experience with the City multiple locations.

HAYNES Yes sir.

DUNLAP In that experience there were some restrictions that were applied to your properties that were not code or tighter than code, did that happen to you here too?

HAYNES Those did occur on our other sites and it did occur here as well.

MARK STEWART 5546 N. Meridian I will be living directly across from this monstrosity. I moved into my house in 1985. I've lived there for 20 years, and believe me if I knew Wal Mart was going to move across there back when I bought I would have never bought. 53<sup>rd</sup> Street and Meridian were both two-lane. Who would have known what time was gonna bring. The way I look at it there was no reason whatsoever why we need a super Wal Mart at 53<sup>rd</sup> Street and Meridian. 15 minutes from my house I can be at 21<sup>st</sup> and Maize. 15 minutes I can be at 29<sup>th</sup> and Rock. 20 minutes I can be at Newton Wal Mart. There's no reason in the world we need another one here. A lot of my neighbors that I talk to if you put a stop light at 54<sup>th</sup> Street we will not be able to get out of our driveway and go south. We will have to go north, go back through the back streets in order for us to get out of our property. I personally won't be able to use my property at all because I've got a racecar sitting in the garage. I've got a fifth wheel sitting next to my house. I've also got two car trailers and a log splitter. I've got too many trailers I know that. Right now when I back a trailer into my drive I come in from the north, and have to wait for the 53<sup>rd</sup> Street light to turn red. When the northbound traffic clears I pull into the northbound lane and back in. I will not be able to do that if you put a stop light at 54<sup>th</sup> Street. Any view out of our front window is going to be Wal Mart. That's all we were going to see, and that is not fair to us. There's going to be lights all night long. We will get to hear impacts from the service center, tire and lube express. We are going to hear them all day long because it's going to be right adjacent from the street from our properties. Noise level from the traffic all night long. The semi's are going to be turning right directly across from my place going into that place every night. There's no other Wal Mart in Wichita that is built this close to residential housing. The local businesses in our community that's going to be put out of business because of them. We've got a guy by the name John Leeker that has two grocery stores. This man delivers food to the elderly that can't make it to his stores. I guarantee Wal Mart isn't going to do that. It's going to put this man out of business as well as others. I talked to two realtors that say we were going to have a time trying to sell our property, and I'm not going to live across from Wal Mart.

#### TAPE CHANGE

If we can't sell our house, we're gonna lose money, and I know a lot of my other neighbors have done a lot of improvements to their places. It's unfair to us to have to move when there's no reason for Wal Mart to be built there. I ask every one of you guys to put yourselves in our shoes if you lived in our house would you like to look across the street to that monstrosity. There's really no reason for it, especially when there's three of them within 15-20 minutes of our home. Mr. Owen mentioned today that this would be the best Wal Mart ever with the best landscaping etc., the only reason they're doing it is because of the impact, and he even said the word impact. The impact it's going to have on our home. We shouldn't have to look at that. I don't mind a housing district next to me. I do not want a damn Wal Mart across the street. I ask you to really consider this. Thank you for your time.

LUPHA PORTER 5576 N. Meridian Some of my concerns are who is going to pick up the tab for the city sewer when it's brought into accommodate the Wal Mart, and all of our neighbors along Meridian all feel the same as Mr. Stewart does.

APPLICANT OWEN BUCKLEY Wal Mart is providing a sewer extension up to this intersection. By the way, I do not live by a Wal Mart but I do live near heavy shopping area. As far as another Wal Mart, Wal Mart has a lot of stores. They're not putting another one in there to lose money. Obviously, it's a prudent business decision to put one in. Their decision to put another Wal Mart in is spacing, the growing population, the growing suburbs; a lot of it is based on the strength of three actual stores, the one on West Kellogg that was recently expanded, the new store at 21<sup>st</sup> & Maize, and the store that's been at 29<sup>th</sup> & Rock for a long time, and has expanded six years ago. They based their extra stores or their added stores to the market basically based on the customer. The customer tells them when they need another store. When the stores are getting so packed with people that they can hardly maintain them, and it's hard to maintain them, and keep things stocked, and do it the way that their objectives are set for, it's time to build another store.

HILLMAN Is there additional property available immediately west of your current identified location?

BUCKLEY There is cornfield to the west, whether it's available or not, I don't know. We're not the marketing agents for that. We have the subject property under contract from a group that owns it, and they do own the property to the west.

HILLMAN You would have the ability to create an additional buffer between you and the homeowners, is that correct?

BUCKLEY To the west or to the east?

HILLMAN Homeowners to the east.

BUCKLEY On the other side of Meridian?

HILLMAN Yes.

BUCKLEY We have a buffer there currently. We have an artist rendering that was done to show that. Doug Thompson with Law Kingdon can probably do a better job at explaining what this rendering exactly is.

DOUG THOMPSON WITH LAW KINGDON The rendering at the top is looking from the east side of Meridian. Looking west, what you are seeing is the garden center. We purposely did not show the berm. We will have a ¼ berm between Meridian and the parking lot. This is showing mature trees that will help screen that side of Wal Mart. Those are mature trees about 8 or 10 years from now. The store will open the Summer of 2007. We've gone through great lengths screening part of the garden center. As Donna mentioned, we've got the mesh on top of the ornamental fence to help screen the dry goods that are stored behind it. In addition, we built a four-foot foot high wall that will hide the dry goods on the open pallets. We have extensive landscaping all along Meridian and along 53<sup>rd</sup>.

HILLMAN Since you've got the same property in negotiation for this property do you have the ability to shift the whole operation 100 foot west?

THOMPSON Well I'd have to go back and discuss that with them. That takes us further off the street. Land is obviously available. We'd have to go back and discuss that with the landowner. It was never contemplated. I don't know how City Planning would feel.

HILLMAN That would allow for additional buffering for the neighborhood.

OWEN How wide of a strip Doug? Do we have, what do we have right now.

THOMPSON 15-20 feet.

HILLMAN Where's your automotive tire shop?

THOMPSON It's going to be on the northeast corner of the store.

HILLMAN Where the road is again narrowing?

OWEN If I may answer that question on the buffer zone. In this area were looking at 25 feet. Actually from the basic curb from Meridian as it's proposed to be constructed. This area is between 15-20 feet from the parking to the edge of the Meridian, and within that area is also a sidewalk which is required to be extended along the entire length of the property, and then the buffer zone widens out to 35 feet where the automotive center is located between the parking spaces and the edge of Meridian where its proposed to be constructed, and this is the area where Meridian will taper back to a four lane width road.

ALDRICH I have a brief question for my own personal knowledge, what is the projected employment at this store?

OWEN About 350-400. It could go up during the holiday season.

MCKAY I go back to the last one we heard, the landscape code of the City of Wichita is really not sufficient. Would you be willing to double what the City requirement would be? All it does is thicken it up so no one can see in 5 or 10 years whenever it gets grown.

OWEN Are you saying double it up along Meridian?

MCKAY Yes, across from residential.

OWNE Yes, I would also like to defer back to the experts to landscape architecture, which is also with Law Kingdon. As you know the mixture of trees and species, I'm not an expert in that area.

MCKAY I understand. With something like this our landscape deal sometimes is not the greatest in the world, my personal opinion, but in a situation like this because of the opposition. You only show four trees. Once the building gets built we want to get a buffer now and the only best way to do it is with trees, not only with sound but looks and everything.

OWEN I do know we comply with the ordinance. We can take a look. We did beef up this area. We can take a look and see about adding more trees.

MCKAY You'd be willing to do that.

**MOTION:** To approve subject to staff comments the including of doubling of the landscape requirement, which they've agreed on the east side.

**MARNELL** moved, **MCKAY** seconded the motion, and it carried (9-1) **HILLMAN** opposed.

6. **Case No.: CON2005-45** – Shirley Farber Hulke (applicant); Spring PCS c/o Debbie LaDuke (agent) Request Sedgwick County Conditional Use for a 150' monopole wireless communication tower on property zoned "RR" Rural Residential on property described as;

Legal Description Lease Site

Commencing At The Northwest Corner Section 17; Thence N 89 Degrees 23'47"E Along The North Said Section 17, A Distance Of 1301.59 Feet; Thence S 00 Degrees 36' 13"E, A Distance Of 349.30 Feet To The Point Of Beginning; Thence N 88 Degrees 53'03" E, A Distance Of 50.00 Feet; Thence S 00 Degrees 51'42"W, A Distance Of 50.00 Feet; Thence S 88 Degrees 53'03"W, A Distance Of 50.00 Feet; Thence N 00 Degrees 51'42"E, A Distance Of 50.00 Feet To The Point Of Beginning, Containing 2500 Square Feet, More Or Less. Generally Located 1/4 Mile East Of Rock Road And 300 Feet South Of 87th Street South.

**BACKGROUND:** The applicant seeks a Conditional Use to permit a 150-foot tall monopole wireless communications facility. The unplatted application area is zoned "RR" Rural Residential, is 50 square feet square in size, and is located approximately ¼ mile feet east of Rock Road and 300 feet south of 87<sup>th</sup> Street South. The property owner also owns the 48 acres surrounding the site; this property is used for agriculture. The 50 square foot site is proposed to be fenced and contain the 150-foot monopole tower and accessory equipment. Access to the site is via a gravel road located on the south side of 87<sup>th</sup> Street South.

The application area sits immediately south, or behind, the KGE owned Farber electric substation. North of 87<sup>th</sup> Street South is an RR zoned single-family residence on two acres, and a 25-acre church owned parcel, approved for a sports field Conditional Use (CON2005-08). Remaining surrounding land is zoned RR and used for agriculture. Rock Road, ¼ mile to the west, is the current Derby City Limit, with residential development immediately west of Rock. This application area is within the Derby Zoning Area of Influence, and will be heard by the Derby Planning Commission for a recommendation.

The applicant indicates they need a tower in this general area in order to improve customer service for Sprint PCS, primarily for Derby and the surrounding area, specifically the residential and business areas surrounding 87<sup>th</sup> and Rock. The proposed site will also improve coverage to the east and northeast of 79<sup>th</sup> and Rock. One residence is the only structure within 1,000 feet of the proposed facilities. The applicant indicates that the closest existing tower is located approximately one and a half miles to the northwest of the application area, with another existing tower located over three miles to the northwest. Neither one of these structures are located in the target service area in a way that will effectively address the company's service delivery objectives.

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH: RR Rural Residential; single family, proposed sports fields, agriculture  
SOUTH: RR Rural Residential; agriculture  
EAST: RR Rural Residential; agriculture  
WEST: RR Rural Residential; agriculture

**PUBLIC SERVICES:** The site does not have access to sewer or water services, nor does the use need them. Access to the site is via a gravel road.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the *Wichita-Sedgwick County Comprehensive Plan* places this site within the Derby 2030 Growth Area. *The Wichita-Sedgwick County Unified Zoning Code* requires wireless facilities to be setback one foot for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. *The Wireless Communication Master Plan* contains location and height guidelines, design guidelines and co-location requirements that have been incorporated in *The Wichita-Sedgwick County Unified Zoning Code* as Supplemental Use Regulation G. In general, the Wireless Plan promotes a wireless system that minimizes the height and number of support structures necessary to provide effective services.

**RECOMMENDATION:** The main focus of the "Wireless Communication Master Plan" is to encourage effective wireless service while minimizing the number and height of support towers, and the visibility of the equipment needed to provide the service. The plan includes design guidelines that indicate: co-location is preferred to new construction; the character of the area should be preserved as much as possible; minimize the height, mass or proportion of the facilities and minimize the silhouette presented by the support structures and antenna arrays. To that end a monopole support structure has generally been found to be consistent with the plan's recommendations. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following Conditional Use restrictions:

- A. All requirements of Section III.D.6g. Of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a monopole with a maximum of 150 feet in height and shall not be lighted unless required by the FAA.
- D. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed facility, and shall comply with all FAA conditions of approval. The applicant shall submit a copy of FAA approval to the MAPC and County Code Enforcement prior to the issuance of a building permit.
- E. The site shall be developed in general conformance with the approved site plan and elevation drawings. All improvements shall be completed before operational.
- F. The site shall be developed and operated in compliance with all federal, state and local rules and regulations.
- G. If the Zoning Administrator finds that there is a violation for any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are zoned RR Rural Residential and primarily used for agricultural purposes, with residential and sports field uses across 87<sup>th</sup> Street South from the site. The character of the area is rural, although it is within the Derby 2030 Growth Area, and approximately ¼ mile from the Derby City Limit and residential development. The existing electric substation, immediately north of the site, has already established a utility-type use and character in this area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR Rural Residential and is currently used for agriculture. The site could continue to be used for agricultural uses or for large-lot residential uses permitted by the RR district or other uses permitted by right in that zoning district. However, the application area may not be desirable for residential development due to its proximity to a large electrical substation.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed tower should have no visual affect on surrounding agriculture property. It could have an affect on the existing residence north of the site, the proposed sports fields north of the site, and any future surrounding residential development. However, the existing electric substation has already established a large utility visual presence at this location.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: According to the applicant, approval would improve wireless services specifically for Sprint customers and for other public carriers needing to improve service in the area who could utilize the proposed wireless facilities. Denial

would presumably cause the property owner a loss of income and potentially limit wireless service in the area identified as being deficient in service.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide of the *Wichita-Sedgwick County Comprehensive Plan* places this site within the Derby 2030 Growth Area. The Unified Zoning Code requires wireless facilities to be setback one foot for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. The application appears to comply adopted policies.
6. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed facility does not detrimentally impact community facilities.

**MOTION:** To approve subject to staff recommendations.

**JOHNSON** moved, **MCKAY** seconded the motion, and it carried (10-0).

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7. **Case No.: PUD2005-05** – The creation of the Kirk Planned Unit Development, PUD #21, to allow mixed residential, civic/public and commercial uses, generally located 1/3 mile south of 21<sup>st</sup> Street North and west of Maize Road, on property described as;

The west 627.56 feet of the east 874.40 feet of the south 299 feet of the N/2 of the SE/4 of the NE/4 of Section 7, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas.

**BACKGROUND:** The applicant proposes a 4.3-acre, two parcel mixed residential, public – civic and commercial Planned Unit Development (PUD), generally located 1/3 of a mile south of 21<sup>st</sup> Street North and 170-feet west of Maize Road. The unplatted site is currently zoned "SF-5" Single-family Residential. The western 3.01-acres of the site has a Conditional Use overlay, CU-156, that permitted a metal agricultural storage building for agricultural and non-agricultural storage. This eastern 1.02-acres of the site is not part of the CU-156 overlay.

Currently the western portion of the site is developed for Kirk's Excavating. On this portion of the site there are a metal storage building with one side of it open, a metal garage/storage building, a metal office building, what appears to be a private dispatch tower (85-feet tall, per the applicant's October 24, 2005 letter), a small shed, stockpiles (approximately 6 - 8-feet tall) of dirt and gravel, tractors, various types of trucks, scrapers, trailers and other equipment used by the excavation business. There is wooden privacy fence along the excavation company's south and north sides where it abuts "SF-5" zoned single-family residences and a church. There is no solid screening along its west side where it abuts "SF-5" zoned undeveloped land. The eastern 1.02-acres of the site is currently developed with a single-family residence. There is an evergreen hedge (over 6-foot tall) between this eastern portion and the abutting medical – dental offices. The entire site has no frontage on Maize Road. Access to Maize Road to the proposed PUD parcels is an existing drive, which passes by the south side of the existing offices.

The applicant's PUD site plan shows the site divided into two parcels. The two parcels reflect the current configuration of the western excavation business (Parcel 1) site and the eastern single-family residence (Parcel 2) site. The site plan shows the existing buildings, general groupings of existing plants/landscaping and the area where materials are stock piled. The site plan's general provisions propose standards for utilities, signage, drainage, ownership's responsibilities, fire, circulation/access, screening and landscaping. The site plan shows access to the PUD through the previously mentioned existing drive. The site plan does not show the existing solid screening, lighting, parking, the dispatch tower, or signage.

The proposed uses for the two parcels are identical, with two exceptions. The western Parcel 1 is proposed to have a 150-foot wireless communication facility (see applicant's attached letter) and the eastern Parcel 2 is proposed to have ancillary parking. Per the Unified Zoning Code (UZO), both uses are considered commercial types. Uses common to both parcels include:

- (a) Single-family residential, duplex residential, multi-family residential (see letter) and assisted living. Per the UZO, all these uses are considered residential types.
- (b) Group home, limited and general and convalescent care, limited and general. Per the UZO, all these uses are considered public - civic types.
- (c) General office, personal improvement services and construction sales and services, as defined in the applicant's attached letter. The use of the wireless communication facility is included in Parcel 1's definition of construction sales and services and not in Parcel 2's. The excavation business currently on Parcel 1 appears to have a private dispatch tower, which is presumably what the applicant is referring to. Per the UZO, all these uses are considered commercial types.

Development abutting the site's east side, on properties zoned "NO", Neighborhood Office, are a single-story dental office (built 2001) and a soon to be finished single-story medical office. These two buildings/developments are between the site and Maize Road. Abutting the south side of the site, zoned "SF-5", is the Winwood Addition's (recorded January 2, 1996), with its 49 single-family residences. The partially developed 33.37-acre Westlink Christian Church Addition (recorded June 15, 1998) abuts the site's north and west sides. All of the Westlink Christian Church Addition is zoned "SF-5" with the north portion of the subdivision developed as a church (built after 1998), while the western portion remains undeveloped. Single-family residences, zoned "SF-5", are west of the churches undeveloped western portion.

Beyond the development in the site's immediate area, on either side of Maize Road, between 21<sup>st</sup> and 13<sup>th</sup> Streets North, commercial development is located at the arterial intersections (zoned predominately "LC" Limited Commercial) with predominately single-family residential development (zoned "SF-5") between these commercial nodes. An exception is a large (37.81-acre) cemetery, zoned "SF-5" with a Conditional Use overlay, located midway between 21<sup>st</sup> and 29<sup>th</sup> Streets North. There is also a small bundle of "TF-3" zoning southeast of the site.

According to the FCC Antenna location map for Wichita and Sedgwick County, the nearest cellular tower is approximately ¼ mile north of 29<sup>th</sup> Street North and approximately ¼ mile west of Maize Road. The nearest microwave tower is located approximately ¼ mile south of 13<sup>th</sup> Street North and midway between Maize and Tyler Roads.

**CASE HISTORY:** The site is not platted. On December 12, 1973 the County Commission approved CU-156, permitting a metal agricultural storage building for agricultural and non-agricultural storage on what is proposed to be Parcel 1 of the PUD. The entire site was annexed into the City in 1999. On August 15, 2005 the applicant completed a "Nonconforming Registration Form", to determine if the site's (Parcel 1) current excavation business was a legal nonconforming use. In a letter dated August 25, 2005 the Zoning Administrator confirmed the excavation business was a legal nonconforming use, while noting its current extensive outdoor storage of equipment and materials. In that same letter the Zoning Administrator stated that if there was a significant increase in outdoor storage or if construction of another building was desired, an amendment to CU-156 or rezoning of the site might be required.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5" Single-Family	Large church
SOUTH: "SF-5" Single-family Residential	Single-family residences
EAST: "NO" Neighborhood Office	Medical & dental offices
WEST: "SF-5" Single-family Residential	Undeveloped land owned by northern abutting church

**PUBLIC SERVICES:** Maize Road is a four-lane arterial at this location. The 2030 Transportation Plan of the Wichita/Sedgwick County Comprehensive Plan designates this portion of Maize Road to remain a four-lane arterial. No projects exist in the CIP for this portion of Maize Road. Traffic counts on this portion of Maize Road, between 21<sup>st</sup> and 13<sup>th</sup> Streets North are between 17,012 - 12,025 vehicles per day. All public services and all utilities are available on the site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" identifies the application area as appropriate for "local serving commercial" development. The Guide suggests "commercial, office, and personal services that do not have a significant regional draw", as appropriate development for "local serving commercial". The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

The Wichita/Sedgwick Unified Zoning Code (UZC) states that the purpose of the PUD zoning district is a "special purpose" zoning district that is intended to encourage innovative land planning and design and to avoid the monotony sometimes associated with large developments. The proposed PUD basically extends the area of CU-156 east onto the single-family residence, allows some local types of commercial uses, mixed residential and would allow a 150-foot wireless communication facility. In a letter dated September 21, 2005 the applicant assumes that the "GC" General Commercial zoning district is the first that permits, by right, construction sales and service as defined by the applicant. The applicant's definition of construction sales and service closely matches what the "OW" zoning district allows; more outside storage for contractor yards and wholesale of materials, with no retail sales. The "GC" zoning district does allow a 150-foot ground mounted wireless communication facility, with an Administrative Adjustment, if it conforms to the Location/Design Guidelines in the Wireless master Plan. A 150-foot facility would not be permitted except as a Conditional Use in the "OW" district. The uses proposed in the PUD, with the exception of the 150-foot wireless facility and the ancillary parking, are all permitted by right in zoning districts more restrictive than "GC" zoning.

The PUD's proposed mixed residential uses (minus the single-family residential) are not in character with development in the area, which is single-family residential with the exceptions of the abutting church and a large cemetery southeast of the site. It is arguable that a duplex, multi-family or assisted living development (with design, materials and height restrictions) could provide a transition between the large church north of the site and the single-family residences south of the site. The same observations can be applied to the public – civic uses it proposes. The proposed commercial uses are partially in character with the area in that they would permit similar development as the medical and dental offices that separate the site from Maize Road. They would also allow some types of personal services, such as a health club, that would be better located in a commercial node. The proposed non-residential uses, for the most part fit the Land Use Guide's "local serving commercial" development criteria of "commercial, office, and personal services that do not have a significant regional draw".

**RECOMMENDATION:** The purpose of the proposed PUD could be partially realized by an amendment to CU-156, in regards to the current excavation business on a portion of the site. The existing excavation business began, on a smaller scale, when the site was in the County. Since that time the site and the area around it has been annexed into the City of Wichita and the subsequent development around the site has been mostly urban scale single-family residential, with the exception of the medical and dental offices abutting it. The large church north of the site is permitted by right. Because of development trends in the area, the excavation business is now an exception to development in the area. An amendment to CU-156 would allow the base "SF-5" zoning to remain in place to allow the possible development of single-family residences in the future. The PUD's proposed general office use would allow the extension of development similar to the dental and medical offices that are currently abutting the site's east side. The PUD's proposed uses of duplex residential, assisted living, group home, limited and general and convalescent care, limited and general could allow some flexibility for future development of the site, that would be somewhat similar to the existing office development east of the site and it would be no more intrusive than the large church is to the existing single-family residences in the area.

The applicant has requested a 150-foot wireless communication facility be allowed to be located on Parcel 1, where the excavation business is located. The applicant has not addressed the Location/Design Guidelines of the Wireless Communication Plan, in regards to justifying this request, thus Staff cannot recommend this use. Staff feels the inclusion of personal improvement services and multi-family residential out of character with the area and cannot recommend these uses.

Based on these factors, plus the information available prior to the public hearing, Staff recommends an amended PUD be APPROVED subject to the following conditions:

- (1) Revise permitted uses on Parcels 1 & 2 shall be single-family residential, duplex residential, assisted living, group homes limited and general, convalescent care, limited and general, and general office; all these uses are to have a maximum height of 35-feet and designed and built of materials to resemble the abutting single-family residences. Construction sales and services, with no retail sales and outdoor storage per the "OW" Office Warehouse District, with no buildings taller than 35-feet. The existing 85-foot private dispatch tower remains on Parcel 1. Maximum building coverage and gross floor area remains as stated in the original PUD.
- (2) Revise general provision #10, by adding that no lights shall be taller than 14-feet in height and, that no pole lights shall be located within the setbacks along the west, south and north sides of the property. Compatibility setbacks will be in effect for all development that is not residential. The front of the PUD will be the eastern parcel line of Parcel 2, as the site is currently developed. The "SF-5" zoning district's setbacks will be in effect for all residential development.
- (3) Add to the general provisions that solid screening will be provided on the north, west and south sides of Parcel 1 where it abuts "SF-5" zoning. If non-residential development replaces the existing single-family residence on Parcel 2, solid screening will be provided where it abuts "SF-5" zoning.
- (4) Revise general provision #4 to read that the Parcel 1 & 2 will share one monument type sign.
- (5) Add that the hours of operation for construction sales and services and specifically the excavation business shall be sunup to sundown.
- (6) Stockpiling of materials will be no higher than 15-feet and will be behind all setbacks as stated in the PUD.
- (7) Employee and customer parking for construction sales and services, including the current excavation business will be paved. All other non-residential and residential parking will be per City Standards. A revised site plan for the PUD will show current parking areas and show the number of parking spaces.
- (8) Keep all the other general provisions in place.
- (9) All property included within this PUD shall be platted within one year after approval of this PUD by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the PUD zone change shall not be published until the plat has been recorded with the Register of Deeds
- (10) Prior to publishing the resolution establishing the PUD zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as PUD #21) includes special conditions for development on this property. The applicant shall submit four (4) revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is predominately zoned "SF-5", with three (3) lots zoned "GO". Development is predominantly single-family residential, with the three "GO" lots developed as medical, dental and an insurance office. All three are built to resemble the single-family residences around them. A large church and cemetery (both zoned "SF-5") are also in the area. The excavation business is a holdover from when the area was in the County.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as single-family as currently zoned, and in fact the eastern portion currently has a single-family residence on it. CU-156 is what initially allowed the excavation business. In the opinion of the Zoning Administrator any future expansion or new buildings for the excavation business might require an amendment to CU-156 or rezoning. The PUD as revised by Staff would allow expansion of the excavation business and allow other development that is not entirely out of character with the area, but at a larger scale.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The PUD, which allows the expansion of the excavation business, could have negative effects on the single-family residential abutting the site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide identifies the site as appropriate for "local serving commercial" development. As a PUD, this request would mix low-density residential use and non-residential uses that fit the "local serving commercial" profile, while allowing the existing excavation business to expand within the provisions of the PUD. The proposed development, with the exception of the excavation business, is in accordance with the commercial locational guidelines of the plan.
5. Impact of the proposed development on community facilities: The proposed development could result in increased traffic on this portion of Maize Road.

WARNER We've been asked by the applicant to defer this for 2 weeks. I want to know if there's anyone here that wants to discuss item #7? I'd like to know if you would prefer for us to hear your testimony on item #7 today or if it is deferred, would you prefer to come back and discuss it when the MAPC hears it.

AUDIENCE Will this result in a different staff report perhaps what we see now?

WARNER I'm not aware of that. It's possible. Bill, would there be anything added by the applicant that would change the Staff report?

BILL LONGNECKER, Planning Staff; I suppose during the two-week deferral the applicant could address the location and design guide lines in regard to their request for the 150 foot cell tower. I don't think that will make a difference in staff's recommendation.

WARNER The reason I've asked, is to allow the members of the audience that are here now to talk on this item, before we considered deferring it.

AUDIENCE We would rather wait to make comments until the meeting when you make the decision on the requested zoning and uses. We have a list of names we are in opposition to the proposed uses.

JOHN SCHLEGEL Director of Planning Just a clarification on that list of names, are they on protest petitions?

AUDIENCE Yes.

SCHLEGEL If you want to have them count as recorded protest, you need to turn them in after this board acts. If you just want them as part of the record for this board, in regards to it's making it's decision then it will be fine to turn them in now, but if you want the protest to count when it gets to the City Council then you should wait until after the Planning Commission acts.

**MOTION:** To defer for two weeks.

**DUNLAP** moved, **DOWNING** seconded the motion, and it carried (10-0).

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**8. Presentation regarding the proposed sites for the Sedgwick County Arena by Stephanie Knebel - DIO Facility Project Services, and Ron Holt - Assistant County Manager.**

RON HOLT ASSISTANT COUNTY MANAGER AND PROJECT LEADER for Arena in Downtown Wichita. He reviewed the four possible locations from the map that was distributed to the MAPC members.

DUNLAP You mentioned that your information indicated that people don't want to park in a parking structure. I'm not going to argue with that, but what I'm hearing is that in the initial proposal that we were presented that we voted on; there was a parking structure. I'm not going to debate whether or not it should be there. I think the people expect it.

HOLT I left the wrong impression, by just saying that and ending with that. Were not proposing a parking structure because people won't park in it. Were not proposing one because the parking study shows that within a five-block walk for 90% of the events that will happen at this facility there would be ample parking. Now our County Commissioners...even though the study shows that they're not comfortable with that between now and next week, we will do more visiting with that. The point I want to make is even if we did add additional parking; it probably won't be parking garages, and if it is it will only be a short one not a four or five story.

DUNLAP I'm anticipating the public is expecting one, and the news media isn't helping much. I asked the question of the historic lady before we started on the definition of potential historic. I'd like to hear that again. What is the definition of a potentially historic building, and I'll frame that because on St Francis there are three buildings built in the same year, and only the center one is potentially historic and the owner called me this morning, and said he don't understand.

HOLT I think there's a combination of things. Not only when it was built, but the architecture, how it was used, and the current condition. There's a combination of things and I will tell you, I don't want to overstate this, it is somewhat subjective to whether or not a building is potentially eligible or not potential eligible means you can go through a process and someone body at some point in time will determines whether it is or not. But when it's potentially eligible it does come down to subjective, there are some buildings we will need to work through because we've heard strong feelings from more than one person that they are potentially eligible, and folks are willing to fight for those.

DUNLAP I have an apparent conflict in that particular piece of property. If it is a historic building it could be worth more.

HOLT It's interesting there's one building in the center site that listed as a potentially eligible historic district but it's only one building. Now to be a district it takes two or more buildings. So again some of these things may be that there was a building some other time. You just need to work through them, and were in the process of doing that.

DUNLAP There's a fact that they been on the market for years. We can't get anyone to buy them and they are condemned and so there's that fact too.

MCKAY Talking to Mr. Schlegel because my office is in one of the locations, I declare a conflict of interest. I will not get into this discussion. I will leave.

MCKAY out at 3:40

ALDRICH My concern is parking, and you just made a comment that you think on-site parking would be adequate for events that are taking place. I hope your wrong because if your looking at 260 people showing up that's not good.

HOLT I said on-site parking we've added, and we are also counting other parking, private public and on street within a five block area is the basis for the ample parking.

ALDRICH I would hope that you would define downtown friendly as far as parking. I have an office that is just out of this area and that is a tremendous problem with downtown parking.



HOLT I would tell you that arena events, 98% of arena events that have any kind attendance tied to them will be weekday evening, weekend day or weekend evening. We're not talking about the arena impacting week day parking, maybe two or three times a year.

ALDRICH I'm looking at increasing.

ANDERSON Recently when the consultant was given the charge to develop these sites that presented here, what were the parameter for that. It had to be in the CORE or was it one of the parameters?

HOLT Up until September we were talking about the blue cloud area. That was an area roughly around...the north boundary was William Street, east boundary was the railroad corridor Kellogg and Main.

ANDERSON What about west of the river, south of Kellogg?

HOLT The reason we were doing the arena downtown and moved off of doing revamping of the Coliseum was to spur redevelopment downtown. With that in mind, that defined the area that was going to be considered. When consultants came along and seen some sites in this area, but we think you got to consider Douglas. That's how the north site got on. Again, it was focused on downtown development and that's how the blue cloud got developed.

MARNELL On the parking estimate, spaces within five block area, but it would seem to me all spaces are owned by other people. How does the County plan to deal with that? Is that going to be leased somehow?

HOLT One of the things we will have to do is develop a comprehensive parking plan well ahead of the arena opening. Out of those parking spaces that were talking about not including ones on-site, about 85% are public parking spaces. That means they are City owned parking, and we would have to work with the City in developing that parking plan. The rest are on-site on street or private, and yes we would be working with private developers or private parking auditors. One of the concerns is how can we get control for arena events so our patrons don't get held up for parking.

ANDERSON I can only say that the parking really concerns me relative to this project. When we built Century II we provided for in excess of 500 parking spaces around that building, and subsequent to that we even built a parking garage right next door to it. I think the parking situation is going to come back to haunt us. People are not willing to walk a block or two to find parking.

HOLT We has at least two Commissioners, more than that, three Commissioners that weighed in on that, and before next week we will be addressing that. The study says we have enough. My questions is how much more, and that's what I'm trying to work through now within the next week.

DUNLAP Ron, different subject. Have we absolutely settled on the design shape interior of the building in terms of the number of levels and number of seats?

HOLT We have on the number of seats. We have settled on 15,000 seats for basketball, and everything were doing, rest of the interior of the building, is being developed around 15,000 seats for basketball.

DUNLAP That leaves us with one level.

HOLT Well that's an issue still for discussion. I will give you an example, if you go to Bramledge in K State, it's a 14,000 seat facility, and when you go in it's one concourse.

DUNLAP If we go to two concourses we go to 18,000 without a whole lot of dollars.

HOLT That is incrementally going from 13,000 seats to 15,000. Even with two concourses it is not a lot of dollars, but once you start going to 18,000, the two concourses need to be wider and not only that the foot print of the building will need to be larger.

HILLMAN Is there still interest for putting a hotel along side of this facility? Wouldn't that also need a parking garage?

HOLT if there's a hotel that goes in along beside this facility it will be done by a private developer, and not a part of this. We would have to have some real discussion about parking. John Q Hammond has indicated he's interested. I don't know where that goes. We have not talked to him. We have had a conversation with a group I think is very much interested in developing a hotel in and around Spaghetti Warehouse building.

HENTZEN On the parking garage, I certainly have the same feeling that Don said, as much as activity were trying to push in there, I sure hope we get adequate parking. What I want to tie that to is the Waterwalk. I think whatever was said indicated it's going to be something like San Antonio where water is going in there. Wow that's out of the picture. Now I think were jus having a couple of fountains. We need to quit fooling the public.

WARNER It's my understanding that the County Commission would like for this body to come forth to an opinion on these two locations.

SCHLEGEL If you're so inclined.

DUNLAP I certainly would offer one, I can't. I'd have a conflict of interest.

ANDERSON I'm not positive this is the proper location for this facility. I would have a very difficult time making a judgment at this time.

WARNER Any other comments whether of not we should put forth an opinion of where either site should be.

ALDRICH If your looking at a economic aspect of it as far as also looking at less impact of historical buildings, it would appear to me that it would probably be the purple site. Again, my opinion would be looking at the purple site. If looking at the purple site if your looking for a recommendation.

JOHNSON I just say the group has spent a lot of time and a lot hours studying lots of things for us to look at something or what we read in the newspapers what we heard on TV, and what we presented today, I would say I favor one over the other. I think the committees working well. I want to compliment the committee on what they done this far. It's moved very fast. There's been a lot of good information come out of it. I'm glad to see the County Commission moving like they said they were. We just need to let them do their jobs and support them.

HILLMAN I agree with the last comment. My recommendation, because we have so many diverse opinions and ranges of experience regarding this process, defer any group decision.

WARNER It seems obvious that this group doesn't want to take a position.

CHANGE TAPE

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**9. Review and approve the MAPC 2006 meeting Calendar.**

**MOTION:** To approve 2006 MAPC calendar.

**MARNELL moved, ALDRICH** seconded the motion, and it carried (10-0).

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The Metropolitan Area Planning Department informally adjourned at 3:55 p.m.

State of Kansas)  
Sedgwick County) <sup>SS</sup>

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)